

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 12 2023

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DOMINGO MONTAR-MORALES,

No. 22-35591

Plaintiff-Appellant,

D.C. No. 2:20-cv-00776-TSZ

v.

MEMORANDUM*

BISSON, Officer, Monroe Correctional
Complex,

Defendant-Appellee,

and

JOHN P. PICKERING, Officer, Monroe
Correctional Complex; et al.,

Defendants.

Appeal from the United States District Court
for the Western District of Washington
Thomas S. Zilly, District Judge, Presiding

Submitted June 26, 2023**

Before: CANBY, S.R. THOMAS, and CHRISTEN, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Washington state prisoner Domingo Montar-Morales appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging a failure-to protect claim. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Cortez v. Skol*, 776 F.3d 1046, 1050 (9th Cir. 2015). We affirm.

The district court properly granted summary judgment for defendant Bisson because Montar-Morales failed to raise a genuine dispute of material fact as to whether Bisson was deliberately indifferent to an excessive risk to Montar-Morales's safety. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (a prison official is deliberately indifferent only if the prison official "knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference").

AFFIRMED.